MOSES & SINGER LLP

THE CHRYSLER BUILDING
405 Lexington Avenue, NY, NY 10174-1299
Tel: 212.554.7800 Fax: 212.554.7700
www.mosessinger.com

David Rabinowitz
Direct: 212.554.7815
drabinowitz@mosessinger.com

June 29, 2006

VIA ELECTRONIC FILING and
FIRST CLASS MAIL

Hon. Joseph F. Bianco
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: FragranceNet.com, Inc. v. FragranceX.com, Inc., CV-06-2225

Dear Judge Bianco:

We are incoming counsel for defendant, FragranceX.com, Inc. I enclose the papers required by Local Civil Rule 1.4 for a substitution of counsel.

Defendant was required to move or answer in response to the First Amended Complaint by June 30. Before we knew that previous counsel had appeared in this matter, we filed a letter on June 28 requesting leave to move to dismiss under F.R.C.P. 8 and 12 in order to meet that deadline.

We respectfully request that leave for substitution of counsel be granted and that our letter of June 28 be accepted nunc pro tunc as defendant's response to the First Amended Complaint.

Your consideration is appreciated.

Respectfully,

David Rabinowitz

Encls.
DR:dr

cc: Robert L. Sherman, Esq. (via facsimile and first class mail)
Catherine M. Clayton, Esq. (via facsimile and first class mail)

528373v1 010426.0101

Dockets.Justia.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FRAGRANCENET.COM, INC., Plaintiff, -v- FRAGRANCEX.COM, INC. and JOHN DOES 1-20, Defendants.	CV 06 2225 (JFB) (AKT) **NOTICE OF APPEARANCE AND SUBSTITUTION OF COUNSEL**

PLEASE TAKE NOTICE that Moses & Singer LLP has been retained and substituted as counsel for Defendant FragranceX.com, Inc. in place of Darby & Darby, P.C. in the captioned action as of the date hereof.

PLEASE TAKE FURTHER NOTICE that all papers should hereinafter be served on Moses & Singer LLP.

Dated: New York, New York
June 29, 2006

Moses & Singer LLP
Substituted Counsel for Defendant

By: [signature]
David Rabinowitz (DR-5205)
405 Lexington Avenue
New York, New York 10174-1299
(212) 554-7800

514627v1 010254.0101

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FRAGRANCENET.COM, INC., Plaintiff, -v- FRAGRANCEX.COM, INC. and JOHN DOES 1-20, Defendants.	CV 06 2225 (JFB) (AKT) **STIPULATION AND ORDER FOR SUBSTITUTION OF COUNSEL**

IT IS HEREBY STIPULATED by and between the undersigned attorneys that Moses & Singer LLP be substituted in place of Darby & Darby, P.C., as counsel of record for Defendant FragranceX.com, Inc., in the captioned action.

Dated: New York, New York
June 29, 2006

Darby & Darby, P.C.
Retiring Counsel for Defendant

By: ______________________
Robert S. Weisbein (RW-0080)

805 Third Avenue
New York, New York 10022-7513
(212) 527-7700

Moses & Singer LLP
Substituted Counsel for Defendant

By: ______________________
David Rabinowitz (DR-5205)

405 Lexington Avenue
New York, New York 10174-1299
(212) 554-7800

SO ORDERED:
Dated: June __, 2006

____
Hon. Joseph F. Bianco, U.S.D.C.J.

528321v1 010426.0101

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FRAGRANCENET.COM, INC., Plaintiff, -v- FRAGRANCEX.COM, INC. and JOHN DOES 1-20, Defendants.	CV 06 2225 (JFB) (AKT) **AFFIDAVIT OF ROBERT S. WEISBEIN**

STATE OF NEW YORK)
ss.:
COUNTY OF NEW YORK)

ROBERT S. WEISBEIN, being duly sworn, deposes and states:

1. I am an attorney duly admitted to the Bar of this Court and a Member of Darby & Darby, P.C., retiring counsel for Defendant FragranceX.com, Inc. I make this affidavit, based upon my personal knowledge herein, in support of Defendant's application, pursuant to Local Civil Rule 1.4, for an order permitting the firm of Moses & Singer LLP to be substituted as counsel of record for Defendant in this action in place of the firm of Darby & Darby P.C.

2. I have learned that Defendant no longer wishes Darby & Darby, P.C., to represent it in this action and instead wishes Moses & Singer LLP to handle this matter.

3. Moses & Singer LLP has consented to this change of counsel and I have signed a Stipulation and Order for Substitution of Counsel, which I understand Moses & Singer LLP will be submitting to this Court.

4. This substitution of counsel will not delay the completion of this case since all files relating to defendants and these proceedings have been duly transferred to David Rabinowitz of Moses & Singer LLP, who is familiar with these proceedings.

5. Based on the foregoing, I respectfully request that this Court permit the substitution of counsel and allow Moses & Singer LLP to become counsel of record for Defendant in this matter.

Robert S. Weisbein

Sworn to before me this
29th day of June 2006

Notary Public

MARY A. MELVIN
Notary Public, State of New York
No. 01ME4724081
Qualified in Queens County
Certificate Filed in New York County
Commission Expires October 31, 2006